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TO: Commissioner for Patents

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COMMENTS: Transmitted herewith is an Election for:

App. No.: 10/820,319

Confirmation No.: 8542

Applicant: Khandros et al

Filed: April 8, 2004

TC/A.U.: 2829

Examiner: Vinh P. Nguyen

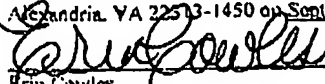
Docket No.: P198-US

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

ELECTION

To Whom It May Concern:

Election:

In response to the Restriction of August 9, 2005, the shortened statutory period for response to which ends on September 9, 2005, Applicants hereby elect with traverse the claims of Group I, namely, claims 1-9, 14-24, and 30-34.

Applicants further elect species B (corresponding to Figure 8) and identify claims 1-9, 14-24, and 30-34 as reading on species B. Applicants assert that each of claims 1-9, 14-24, and 30-34 is generic to species B and at least one other species of species A and C-E. Applicants reserve the right to traverse any change to the identification of claims that read on the elected species or that are generic.

Grounds For Traversing The Restriction:

Applicants respectfully traverse the Restriction on the grounds that the Examiner has not established a *prima facie* case that each of species A-E is distinct one from another. As discussed in the MPEP, "species must be patentably distinct from each other." (MPEP § 806.04(h).) The Restriction fails even to identify any characteristics of species A-E much less

Appl. No. 10/820,319
Election dated September 9, 2005
Reply to Restriction of August 9, 2005

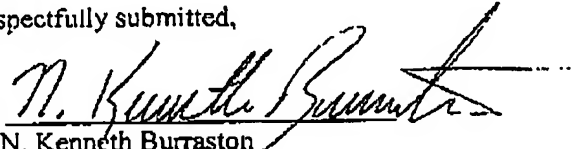
provided any basis for concluding that each of the species is distinct one from another. Absent such an explanation, the Restriction fails to set forth a *prima facie* case for restriction among species A-E. Accordingly, that portion of the Restriction dividing Group I into species A-E must be withdrawn.

Applicants traverse the division of Group II claims into species AA, BB, and CC for the same reason. Namely, the Restriction fails even to identify any characteristics of species AA, BB, and CC much less provided any basis for concluding that each of the species is distinct one from another. The Restriction therefore fails to set forth a *prima facie* case for restriction among species AA, BB, and CC. Accordingly, that portion of the Restriction dividing Group II into species AA, BB, and CC must be withdrawn.

If the Examiner believes that a discussion with Applicants' attorney would be helpful, the Examiner is invited to contact the undersigned at (801) 323-5934.

Respectfully submitted,

Date: September 9, 2005

By 
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